

Rule 5, Ariz. R. Crim. P.

PRELIMINARY HEARINGS – A magistrate may not make a mental competency determination.....Revised 12/2009

A committing magistrate is limited as to the matters to be determined at a preliminary hearing. For example, a magistrate may not refuse to hold a preliminary hearing by finding that a defendant is mentally incompetent to assist in his own defense. In *State v. Pima County Superior Court*, 103 Ariz. 369, 442 P.2d 113 (1968), the Arizona Supreme Court found that a committing magistrate could not grant a defendant's motion to continue, even though the defendant presented evidence that he was mentally incapable of understanding the nature of the proceedings against him. *Id.* at 372, 442 P.2d at 116. The Court stated that the role of a committing magistrate is to determine whether or not probable cause exists to hold a defendant to answer, regardless of the defendant's mental condition. *Id.* Determinations of mental competency are reserved to courts which have the authority to try felony cases. *Id.*